IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION No 6695 of 1988

For Approval and Signature :

Hon'ble MR. JUSTICE S.K.KESHOTE

---

1. Whether Reporters of Local Papers may be allowed to see the Judgment ?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the Judgment ?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

MANDALIA BHIKHABHAI AMARSI
VERSUS
STATE OF GUJARAT

Appearance:
MR AH DESAI for the Petitioner
MR SP HASURKAR with MS HANSA PUNANI for Respondents

CORAM : MR JUSTICE S.K. KESHOTE
Date of Decision : 28/03/2000

C.A.V. JUDGMENT

Heard the learned counsel for the parties.

2. The name given to the appointment of the petitioners is not very material. For all the practical purposes, it is a case of reemployment after retirement of the petitioners and as the emoluments of reemployment along with the pension exceeds Rs.750/-p.m. they could not have been given the benefits of resolution dated 10th October, 1988. Otherwise also, this resolution is not retrospective. However, the benefits have been given to the petitioners and now at this later stage, sought to be recovered back for which legally they were not entitled. But the respondents have given the same to them and as such it is a case where the respondents have to consider the matter for waiver of recovery in the facts of this case and particularly the fact that the petitioners are very old employees. To this extent only, the relief can be granted.

3. In the result, this special civil application is disposed of in terms that the petitioners to make a representation to the respondent No.1 for waiver of the recovery of the excess amount paid to them. In case, such a representation is made, the respondent No.1 shall consider the same in accordance with law and sympathetically. Where the prayer of the petitioners is not acceptable, then a reasoned order be passed and copy of the same be sent to the petitioners by regd. post A.D.. In case of difficulty, liberty is granted to the petitioners for revival of this special civil application. Rule and special civil application stand disposed of accordingly with no order as to costs.

****

zgs/-